

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

JOSEPH BONGIOVANNI and  
MICAHEL MASECCHIA,

19-CR-227-JLS-MJR  
FOURTH AMENDED  
SCHEDULING ORDER

Defendants.

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1. All pretrial motions, both dispositive and non-dispositive, including all supporting papers and memoranda of law in support thereof, shall be filed by **12/28/2020**. Any motion to suppress statements or physical evidence must initially be accompanied by an appropriate affidavit (or declaration) from an individual with personal knowledge, failing such the Court will normally recommend that the motion be denied without an evidentiary hearing. See *United States v. Marshall*, 2012 WL 5511645, \*2 (W.D.N.Y.), adopted 2012 WL 5948782 (W.D.N.Y. 2012); *United States v. Longo*, 70 F.Supp.2d 225, 248 (W.D.N.Y. 1999). All motions seeking severance are to be separately filed with the Hon. John L. Sinatra, Jr.

2. All responses to pretrial motions, including all supporting papers and memoranda of law in support thereof, filed in accordance with the preceding paragraph shall be filed by **1/25/2021**.

3. Defendants' reply including identification of the areas of dispute that remain following the government's response, shall be filed by **2/8/2021**.

4. Oral argument on any pretrial motions shall be heard on **2/12/2021** at **11:30 a.m.** If necessary, an evidentiary hearing will be scheduled for a later date.

5. If no motions are filed on or before **12/28/2020**, the government shall immediately file a motion requesting a trial before Judge Sinatra.

As of this date, no time will have elapsed from the Speedy Trial Act Calendar. For the reasons stated on the record, I find that the government's and the public's interest in a speedy trial is outweighed by the defendants' interest in having effective assistance of counsel by allowing

sufficient time to review voluminous discovery and frame appropriate motions, as well as the public's interest in possible early resolution of the case through plea dispositions. Therefore, the time period from **11/16/2020** until **12/28/2020** is excluded under 18 U.S.C. §§3161(h)(7)(A) and 3161(h)(7)(B)(iv).

If pretrial motions are filed on or before **12/28/2020**, the period of time from the filing of said motions through **2/12/2021** will be excluded pursuant to 18 U.S.C. §3161(h)(1)(D).

Defendant Bongiovanni has consented to these time exclusions.

Any requests for extension of the above dates must be in strict compliance with Local Rule 12(g), which requires written application prior to the due date, made to the undersigned. Such application shall be made only after conferring with all other parties and shall include a suggested rescheduled date, agreeable to all parties. As a general rule, no request for an extension will be granted unless extraordinary circumstances are present.

Failure by any party to raise defenses or objections, or to make requests which must be made prior to trial or at the time set forth in this scheduling order or prior to any extension made by the court shall constitute a waiver thereof.

**SO ORDERED.**

DATED: November 16, 2020  
Buffalo, New York

*/s/ Michael J. Roemer*  
MICHAEL J. ROEMER  
United States Magistrate Judge